

Before the
Federal Communications Commission
Washington, D.C. 20554

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| In the Matter of |) | |
| |) | |
| Amendment of Section 73.202(b), |) | |
| FM Table of Allotments, |) | MM Docket No. 00-250 |
| FM Broadcast Stations. |) | RM-10025 |
| (Sauk Centre and Alexandria, Minnesota) |) | |
| |) | |

NOTICE OF PROPOSED RULE MAKING

Adopted: December 6, 2000

Released: December 15, 2000

By the Chief, Allocations Branch:

1. The Allocations Branch has before it a joint petition for rule making filed by Main Street Broadcasting, Inc., licensee of Station KMSR(FM), Sauk Centre, Minnesota, and BDI Broadcasting, Inc., licensee of Station KIKV-FM, Alexandria, Minnesota ("joint petitioners), requesting the (1) substitution of Channel 232C3 for 232A at Sauk Centre, the reallocation of Channel 232C3 from Sauk Centre to Alexandria, and the modification of Station KMSR's license accordingly; and (2) the reallocation of Channel 264C1 from Alexandria to Sauk Centre, and the modification of Station KIKV's license accordingly. Joint petitioners state that they will immediately file the necessary applications to implement the changes, if allotted.

2. In support of the proposals, joint petitioners state that this swap would allow Station KMSR to upgrade from Class A to Class C3 which would expand its service area and provide greater and more reliable broadcast service to the residents of Alexandria. Joint petitioners state that Station KMSR currently serves 15,352 persons within 1,527.7 square kilometers (954.8 square miles), and that the proposed facility on Channel 232C3 would serve 46,004 people within 4,656.6 square kilometers (2,910.4 square miles).

3. We believe that the proposal warrants consideration since it would enable Station KMSR at Alexandria, Minnesota, to expand its coverage area. To accomplish the upgrade, we also propose the reallocation of Channel 264C1 from Alexandria to Sauk Centre, Minnesota. An engineering analysis has determined that Channel 232C3 can be allotted at Alexandria, Minnesota, at petitioner's requested site 8.8 kilometers (5.5 miles) northwest of the community.¹ Additionally, Channel 264C1 can be reallocated from Alexandria to Sauk Centre at, at a site 15.6 kilometers (9.7 miles) west of the community.² As requested, we shall also propose to modify the license of Station KMSR to specify operation on Channel 232C3 at Alexandria and to modify the license of Station KIKV to specify operation on Channel 264C1 at Sauk Centre, Minnesota.

4. Accordingly, we seek comments on the proposed amendment of the FM Table of

¹ The coordinates for Channel 232C3 at Alexandria, Minnesota, are 45-55-57 and 95-28-21.

² The coordinates for Channel 264C1 at Sauk Centre, Minnesota are 45-41-03 and 95-08-14.

Allotments, Section 73.202(b) of the Commission's Rules, for the communities listed below, to read as follows:

| <u>City</u> | <u>Channel No.</u> | |
|------------------------|--------------------|-----------------|
| | <u>Present</u> | <u>Proposed</u> |
| Alexandria, Minnesota | 264C1 | 232C3 |
| Sauk Centre, Minnesota | 232A | 264C1 |

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. In particular, we note that a showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allotted.

6. Interested parties may file comments on or before February 5, 2001, and reply comments on or before February 20, 2001, and are advised to read the Appendix for the proper procedures. Comments should be filed with the Secretary, Federal Communications Commission, Washington, D.C. 20554. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultants, as follows:

John Wells King, Esq.
Garvey, Schubert and Barer
1000 Potomac Street, NW
Fifth Floor
Washington, DC 20007
(Counsel to Joint Petitioners)

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, Section 73.202(b) of the Commission's Rules. *See Certification That Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, February 9, 1981.

8. For further information concerning this proceeding, contact Victoria M. McCauley, Mass Media Bureau, (202) 418-2180. For purposes of this restricted notice and comment rule making proceeding, members of the public are advised that no *ex parte* presentations are permitted from the time the Commission adopts a *Notice of Proposed Rule Making* until the proceeding has been decided and such decision is no longer subject to reconsideration by the Commission or review by any court. A presentation is not prohibited if specifically requested by the Commission or staff for the clarification or adduction of evidence or resolution of issues in the proceeding. However, any new written information elicited from such a request or a summary of any new oral information shall be served by the person making the presentation upon the other parties to the proceeding unless the Commission specifically waives this service requirement. Any comment which has not been served on the petitioner constitutes

an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

Attachment: Appendix

APPENDIX

1. Pursuant to authority found in Sections 4(i), 5(c)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Allotments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. Showings Required. Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. Cut-off protection. The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules).

(b) With respect to petitions for rule making which conflict with the proposals in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. Comments and Reply Comments; Service. Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice* to which this Appendix is attached. All submissions by parties to this proceeding or by persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See Section 1.420(a), (b) and (c) of the Commission's Rules.) Comments should be filed with the Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., Room TW-A325, Washington, D.C. 20554.

5. Number of Copies. In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. Public Inspection of Filings. All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Reference Information Center (Room

CY-A257), at its headquarters, 445 12th Street, S.W., Washington, D.C.